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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 ELIZABETH I.,

9 Plaintiff,

10 v.

11 COMMISSIONER OF SOCIAL
SECURITY,

12 Defendant.
13

Case No. C19-5245-MLP

ORDER

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15 This matter comes before the Court on Plaintiff's motion for relief under Federal Rule of
16 Civil Procedure 59(e). (Dkt. # 15.) The Court previously requested that the Commissioner file a
17 response brief, which was filed on October 30, 2019. (Dkt. # 18.) After reviewing the parties'
18 briefing and the remainder of the record, the Court DENIES Plaintiff's motion (dkt. # 15) as
19 explained below.

20 A motion for reconsideration under Federal Rule of Civil Procedure 59(e) "offers an
21 extraordinary remedy, to be used sparingly in the interest of finality and conservation of judicial
22 resources." *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003) (internal citations and
23 quotation marks omitted). "Indeed, 'a motion for reconsideration [under Rule 59(e)] should not
be granted, absent highly unusual circumstances, unless the district court is presented with newly

1 discovered evidence, committed clear error, or if there is an intervening change in the controlling
2 law.” *Id.* (quoting *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000)).
3 Rule 59(e) is not a proper vehicle to raise new arguments that could have been raised earlier. *See*
4 *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008).

5 In this case, Plaintiff assigned error to various aspects of the Commissioner’s final
6 decision finding her not disabled and asked for a sentence-four remand based on those errors, or,
7 in the alternative, a sentence-six remand based on evidence submitted for the first time to the
8 Appeals Council. (Dkt. # 10.) The Court found no harmful error in the Commissioner’s final
9 decision, and found that a sentence-six remand was not warranted because Plaintiff had not
10 shown good cause for failing to submit the evidence to the administrative law judge. (Dkt. # 13.)
11 Plaintiff then filed the Rule 59(e) motion, contending that the Court erred in failing to analyze
12 the new evidence under *Brewes v. Comm’r of Social Sec. Admin.*, 682 F.3d 1157 (9th Cir. 2012),
13 even though Plaintiff had not cited *Brewes* in her briefing.

14 The Court declines to consider for the first time on reconsideration how *Brewes* applies to
15 the Appeals Council evidence in this case. *Brewes* pertains to sentence-four remands rather than
16 the sentence-six remand Plaintiff requested. 682 F.3d at 1164. Plaintiff’s opening and reply
17 briefs discuss and apply only the standards for a sentence-six remand, rather than a sentence-four
18 remand. (Dkt. # 10 at 13-18, Dkt. # 12 at 8-9.) If Plaintiff had requested a sentence-four remand
19 in her briefing, the Court would have considered and addressed the applicable standards for a
20 sentence-four remand, but declines to undertake that analysis in resolving a motion for
21 reconsideration.

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1 Plaintiff has failed to show clear error in the Court's order for failure to apply *Brewes*,
2 because Plaintiff's request for sentence-six relief does not implicate *Brewes*. Accordingly,
3 Plaintiff's Rule 59(e) motion (dkt. # 15) is DENIED.

4 Dated this 6th day of November, 2019.

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7 MICHELLE L. PETERSON
8 United States Magistrate Judge
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